

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte HANS PRINZING and RAINER BENTELE

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Appeal No. 2002-0264  
Application No. 09/228,658

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ON BRIEF

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**MAILED**

**FEB 26 2003**

**PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Before KIMLIN, PAK and LIEBERMAN, Administrative Patent Judges.

KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-34,  
all of the claims in the present application.

Claim 1 is illustrative:

1. A press device for treating a fibrous material web  
comprising:

a shoe press unit, said shoe press unit comprising  
a flexible press belt that revolves around a  
non-rotating carrier;

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a counter roll, said counter roll comprising a deflection compensation roll with a roll jacket revolving around a second non-rotating carrier;

a third roll;

a roll nip, said roll nip formed between said counter roll and said third roll;

a press nip, said press nip elongated in a web travel direction, and formed between said shoe press unit and said counter roll;

at least one first support element, the flexible press belt supported on the non-rotating carrier by said at least one first support element in the region of the elongated press nip;

at least one second support element, the roll jacket supported on the second non-rotating carrier by said at least one second support element in the region of the elongated press nip,

a pressure fluid line arranged to generate internal pressures by the at least one first support element on the flexible press belt of the shoe press unit and by the at least one second support element on the roll jacket of the counter roll; and

an adjustment device arranged to change pressure differential between the internal pressures generated by the at least one first support element acting on the flexible press belt of the shoe press unit, and the at least one second support element acting on the roll jacket of the counter roll.



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Appealed claims 1-24 and 26-34 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of Bentele in view of EP '495. Claim 25 stands rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-9 of Bentele in view of '495 and Smook. Claims 1-24 and 26-34 also stand rejected under 35 U.S.C. § 103 as being unpatentable over Bentele in view of EP '495, and claim 25 stands rejected under § 103 over the stated combination of references, further in view of Smook. In addition, claims 1-24 and 26-34 stand rejected under 35 U.S.C. § 103 as being unpatentable over DE '443 in view of EP '495. Also, claim 25 stands rejected under § 103 as being unpatentable over DE '443 in view of EP '495 and Smook.<sup>2</sup>

Appellants submit at page 10 of the principal brief that "none of the claims stand or fall together . . . each of claims 1-34 are separately patentable for the reasons set forth hereinbelow." However, while appellants devote pages 15-18, 25-29 and 36-39 of the brief to re-recitations of the features of claims 2-34, no substantive arguments are advanced for the separate patentability of these claims. It is hardly enough for

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<sup>2</sup> The examiner's rejection of claims 13-17 under 35 U.S.C. § 112, second paragraph, has been withdrawn. (see paper no. 11).

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an applicant to simply offer the conclusion that the cited art fails to teach or suggest the features of separate claims. Accordingly, all of the appealed claims stand or fall together. Ex parte Ohsumi, 21 USPQ2d 1020, 1023 (Bd. of Pat. Appls. and Int. 1991). See also 37 CFR 1.192 (c)(7) and (c)(8)(2000).

We have thoroughly reviewed each of appellants arguments for patentability. However, we are not convinced by appellants that the examiner's rejections are in error. Accordingly, we will sustain the examiner's rejections for essentially those reasons expressed in the answer.

Since appellants' arguments are essentially the same for each of the rejections of claim 1, we will focus upon the rejection over Bentele in view of EP '495. Like appellants, Bentele discloses a press device for treating a fibrous material web comprising a shoe press unit, a counter roll, a third roll, a press nip between the shoe press unit and the counter roll, and first and second support elements for the non-rotating carriers of the shoe press unit and counter roll. Bentele also discloses the claimed pressure fluid line arranged to generate internal pressures by the first and second support elements. A principal

question before us is whether the claimed adjustment device arranged to change a pressure differential between the internal pressures generated by the first and second support elements would have been obvious over the combined teachings of Bentele and EP '495.

As explained by the examiner, EP '495, like appellants and Bentele, discloses a shoe press device for treating a web of fibrous material comprising a shoe press roll and a counter roll which form a nip therebetween. Also like appellants and Bentele, EP '495 teaches a pressure fluid line arranged to generate internal pressures by support elements coacting with the shoe press unit and the counter roll. In addition, EP '495 discloses "varying the pressure force distribution across the width of the material as desired" with "a sensitively adjustable load relief on the margins" (page 3 of translation, second paragraph). More specifically, EP '495 discloses the provision of a pressure-reducing valve (28) in one of the lines (19) or (29) which supplies pressure to support elements (13), (14) and (23) (page 7 of translation, penultimate paragraph). The reference further discloses that "[p]ressure-regulating valves (32, 33), an open-shut valve (34), and a reversing valve (35) facilitate the control of the pressures which exist in the

marginal support elements as desired" (page 8 of translation, third paragraph). Accordingly, based on the collective teachings of Bentele and EP '495, we concur with the examiner that it would have been obvious for one of ordinary skill in the art to employ the claimed adjustment device in the apparatus of Bentele "in order to control the pressure to the first and second roll support elements which would advantageously allow for a variation of the distribution of the pressing force, as desired, over the width of the paper web as taught in EP 752,495" (page 4 of examiner's final rejection, first paragraph). Since, as acknowledged by appellants, Bentele expressly discloses the use of throttles (13) to provide a differential pressure which emanates from a common fluid line, we do not subscribe to appellants' conclusion that there would have been no motivation for one of ordinary skill in the art to utilize the pressure-regulating valves of EP '495 in the apparatus of Bentele.

Appellants maintain that "EP '495 discloses a shoe press device and that the pressure of the support elements should be approximately alike" (sentence bridging pages 11 and 12 of principal brief). However, appellants have not refuted the examiner's finding that no such disclosure appears in EP '495, and appellants' reply brief fails to address this finding.

We are also not persuaded by appellants' argument that the pressure reduction valve (28) of EP '495 is used to adjust the pressure to compensate for the weight of the roll jacket and, therefore, is "not an adjustment device to change a differential pressure, as recited in at least independent claims 1 and 33" (page 12 of principal brief, first paragraph). From our perspective, EP '495 is not fairly limited to the use of a pressure reduction valve to compensate for the weight of the roll jacket. The disclosure in the penultimate paragraph at page 7 of the translation simply cites a counter balance to the weight of the roll sleeve as an example why one of ordinary skill in the art would employ a pressure-reducing valve (28). Moreover, and more significantly, we do not see how the pressure-reducing valve (28) of the reference does not meet the claimed adjustment device, regardless of its intended purpose. The appealed claims define an apparatus, not a method of using the apparatus, and, therefore, the prior art need only disclose an adjustment device that is capable of changing the pressure differential between the internal pressures generated by the first and second support elements. Appellants have provided no reason why the pressure-reducing valves of EP '495 are not capable of performing this function. Indeed, inasmuch as there is no apparent reason why



the throttles (13) of Bentele are not capable of performing the claimed function of changing the pressure differential, we find that the claimed invention would have been obvious over Bentele, considered alone. Again, we emphasize that the claimed invention before us is not a process for adjusting the pressure differential in any particular way. Consequently, appellants' argument that "EP '495 provides no teaching or suggestion of adjusting a differential pressure, as recited in at least independent claims 1 and 33" is not germane to the claimed device on appeal (see page 13 of the principal brief, second paragraph). The claimed "adjustment device", which can be a regulating valve, is met by both Bentele and EP '495.

Regarding the rejection of claim 25 over the additional disclosure of Smook, appellants have not substantively explained why the rationale offered at page 9 of the examiner's final rejection is in error (cambering "is a necessary and conventional practice in the paper making art that is performed in order to achieve a uniform pressure profile across the contacting face of the press roll (page 253, 2nd paragraph)").


As a final point, we note that appellants base no argument upon objective evidence of nonobviousness, such as unexpected results.


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In conclusion, based on the foregoing, the examiner's decision rejecting the appealed claims is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

  
EDWARD C. KIMLIN )  
Administrative Patent Judge )

  
CHUNG K. PAK )  
Administrative Patent Judge )

  
PAUL LIEBERMAN )  
Administrative Patent Judge )

BOARD OF PATENT  
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